

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

YOLANDA R. EFFINGER,

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Plaintiff,

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v.

Case No.: 2:07-CV-657-ID-TFM

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WINN-DIXIE MONTGOMERY, INC.

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Defendant.

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MOTION FOR HIPAA ORDER

COME NOW, the Defendant, by and through the undersigned counsel of record, and respectfully requests this Honorable Court issue an order requiring all health care providers, health plan administrators, and other individuals who may be in possession of health information that is protected by the privacy regulations issued pursuant to the Health Insurance *Portability and Accountability Act of 1996* (HIPAA) to produce said information.

This motion is based on the following:

1. That recent privacy regulations issued pursuant to HIPAA have set many new requirements in place which must be met before certain custodians of health information can disclose said information.
2. That, due to the new requirements, subpoenas and subpoena duces tecums' now issued in litigated matters are being met with resistance and/or delay.
3. That the new privacy regulations issued pursuant to HIPAA have caused a great deal of confusion and uncertainty as to what can and cannot be produced in response to a subpoena request.

4. That the issuance of the Order attached hereto as Exhibit A will have the effect of minimizing any uncertainty and confusion, and allow litigation to proceed without unnecessary delay.

WHEREFORE, PREMISES CONSIDERED, the defendants respectfully request this Honorable Court issue an order as outlined above.

/s/ Randall Morgan

RANDALL MORGAN [MOR037]
Defendant Winn-Dixie Montgomery, Inc

OF COUNSEL:

**HILL, HILL, CARTER, FRANCO,
COLE & BLACK, P.C.**
425 South Perry Street
P.O. Box 116
Montgomery, Alabama 36101-0116
(334) 834-7600
(334) 263-5969..FAX

CERTIFICATE OF SERVICE

I hereby certify that the foregoing was duly served via E-Mail and by placing a copy of same in the U.S. mail, properly addressed and first class postage prepaid this the 9th day of August, 2007 upon the following:

Ronald B. Hatcher, Esq.
P.O. Box 161442
Atlanta, GA 30321

/s/ Randall Morgan

OF COUNSEL

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HIPAA ORDER IN CIVIL CASES

Upon Compliance with Federal Rules of Civil Procedure, the attorneys for the parties and pro se parties to this lawsuit are permitted to inspect and copy all health information relating to any individual who is a party to this case, or of any decedent or other real party in interest, represented by an executor, administrator, guardian, next friend, bailee or trustee, and to inspect and copy all information relative to payment for the provision of medical care to any such individual.

This Court Order authorizes any third-party who is provided with a subpoena requesting the production of documents or commanding attendance at deposition or trial to disclose Protected Health Information in response to such request or subpoena. This Court Order is intended to authorize disclosures under Section 164.512(e)(1) of the privacy regulations issued pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

Nothing in this Order shall be deemed to relieve any party or attorney of the requirements of the Federal Rules of Civil Procedure. Nothing in this Order permits disclosure of confidential communications made for the purposes of diagnosis or treatment of a patient's mental or emotional condition, including alcohol or drug addiction, among the patient, the patient's psychotherapist, and person who are participating in the diagnosis or treatment under the direction of the psychotherapist, including members of the patient's family, nor does this Order permit disclosure of records or information relating to HIV testing or sexually transmitted disease.

Nothing in this Order shall be construed to authorize any party or any attorney for any party to release, exchange, submit or share any Protected Health Information with any other person or any other entity, other than an agent or employee or the attorney or party.

At the conclusion of this action and at the written request of an individual whose Protected Health information has been disclosed or such individual's authorized representative, all recipients of the Protected Health Information shall return to the requesting party the documents and all copies thereof containing Protected Health Information received by them pursuant to this Order.

DONE and ORDERED this _____ day of _____, 2007.

DISTRICT JUDGE

cc:	Randall Morgan, Esq. Hill, Hill, Carter, Franco, Cole & Black, P.C. P.O. Box 116 Montgomery, Alabama 36104	Ronald B. Hatcher, Esq. P.O. Box 161442 Atlanta, GA 30321
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